

Let them laugh. I am laughing, too.

If these executives are looking for new ideas for television reality shows, may I suggest a few. We could take highly paid, well-groomed television network executives and relocate them to the sticks, where they'd have to try to find a job with health care and pension benefits and enough pay to support a family, and adjust to everyday life in rural America. Now that would be funny! And, as the president of the UMW, Cecil Roberts, has suggested, we could put them to work digging coal from a 30-inch seam in a non-union coal mine. That too would be funny!

I could suggest a program where Americans could watch television anchormen trying to get to work on time each day while driving on hilly, winding two-lane roads behind huge coal trucks going 5 miles an hour up steep hills. We would watch their frustration build and build and could take bets on when they would blow their tempers. We could watch them get their \$2,500 made-to-measure suits dirty as they are forced to change tires flattened by huge potholes created by those coal trucks. We could watch them pull their cars into garages and get the estimates for repairs to the damage those potholes have done. Then we could laugh hysterically as they present "fleecing of America" awards to Senators who try to get those highways improved.

Or we could watch nightly news programs featuring episodes of journalists embedded with a Marine battalion comprised of the sons and daughters of Bush administration officials as they are being shot at in Iraq and Afghanistan.

That, of course, would not be funny, but it would make an important point that war is a lot more glamorous and macho when it is someone else's kid you are sending into combat.

Television could be such a positive tool in our society and culture. It could be doing so much good. It could be a powerful instrument to bring out the best in us, rather than appeal to our meanest and darker sides. It could be a creative instrument in elevating the standards and values of the American people rather than lowering them. I strongly urge the executives at CBS to reconsider their plans for the "Real Beverly Hillbillies" in favor of a program that is enlightening, educational, and beneficial.

I yield the floor.

Mr. President, I should not take advantage of my two friends because I have been included in the order. I was given 20 minutes. I yield the floor.

Mr. SESSIONS. If the Senator from West Virginia would like to make additional remarks, I would suggest that Senator MCCAIN had quick remarks he would like to make and I will be glad to have him go ahead of me.

I yield the floor.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 1461 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alabama and I thank also the distinguished Senator from Arizona.

DISASTER RELIEF

Mr. BYRD. Mr. President, in April of this year, Senator COCHRAN, as chairman of the Appropriations Subcommittee on Homeland Security, and I, as ranking member, recognized a looming shortfall in the Federal Emergency Management Agency, FEMA, disaster relief accounts. We urged the President to release monies that he was holding up and also that he request funds to shore up the looming shortfall. Following severe floods in 19 West Virginia counties, I wrote to the administration again, this time pointing out that the Disaster Relief account would likely be empty by the end of July. At the time that I wrote that letter, the disaster relief fund has a balance of \$181 million. The balance now, four weeks later, is a mere \$89 million, and is expected to be completely exhausted by August 8th.

On July 7th, the President finally sent up an emergency supplemental request. After months of delay, the administration requested the additional funds to assist recovery efforts in West Virginia and over 300 other areas in every State of the Nation that have been hit hard by severe rains, floods, and tornadoes. These funds will help citizens to get back on their feet. The communication from the White House requested fiscal year 2003 emergency supplemental appropriations in the amount of \$1.9 billion for the Department of Homeland Security, Agriculture, Interior, and the National Aeronautics and Space Administration, NASA.

The principal item in this request was \$1.55 billion requested for the Department of Homeland Security for FEMA to provide support for "ongoing disaster efforts and to ensure the capacity to respond to future disasters and emergencies." In a communication from Homeland Security Secretary Tom Ridge, dated July 24, 2003, the Department now estimates that it will exhaust existing funds by August 8th and that it has no authority to provide assistance in the absence of appropriations.

The supplemental request also included an amount of \$253 million for fighting wildfires. As some of my colleagues may recall, 42 major fires, which have consumed over 400,000 acres, are raging in 12 western States. Officials at the Forest Service have told the Appropriations Committee that their fire suppression budget is already \$420 million short of what they anticipate needing between now and the end of the fiscal year. Also included

in the Administration's request is \$50 million for unanticipated costs associated with the recovery and investigation of the Space Shuttle Columbia accident.

In order to expedite the processing of this supplemental, the distinguished chairman of the Appropriations Committee, Senator TED STEVENS, and I, as ranking member, worked together to assure the earliest availability of this emergency supplemental request by incorporating it into the fiscal year 2004 Legislative Branch appropriations bill. On July 9th, only 2 days after receiving the President's supplemental request, the Appropriations Committee ordered reported the Legislative Branch appropriations bill, which included the full amount for disaster relief, emergency firefighting, and emergency NASA needs sought by the President in his July 7th communication, as well as \$100 million for a shortfall in AmeriCorps, a program which we were told the administration supports. The AmeriCorps amendment was voted on separately on the Senate floor and the funding was sustained by an overwhelming 71 to 21 vote. Subsequently, the Legislative Branch appropriations bill, including the supplemental, was approved on July 11th by the full Senate by a vote of 85 to 7, and conferees were appointed.

So what is the situation? The administration was slow in sending up the emergency supplemental budget request. The Senate Appropriations Committee, under the leadership of Senator TED STEVENS, responded quickly, acting within 2 days of receiving the request. And, within 2 additional days, on July 11th, the measure was approved by the full Senate. We have been waiting for the other body ever since. It has been 2 weeks since we acted on this bill in the Senate. We are advised that the other body plans to depart for the August recess tonight.

What are we to do to cover the costs of recovering from disasters and fire emergencies for the remainder of the current fiscal year? FEMA has already stopped making payments to States for \$400 million of infrastructure repairs in the 300 communities with outstanding natural disasters. Communities have already been forced to put projects for repairing damage from past disasters on hold.

In addition, if the Disaster Relief Fund is depleted by the end of July, which is just around the corner, that leaves 2 full months with no means of providing assistance to communities that may be hit hard by hurricanes, tornadoes, and other disasters or emergencies occurring in August and September. The Forest Service budget request of \$253 million for fighting 42 major fires in 12 western States is needed now.

Furthermore, twenty thousand AmeriCorps volunteers will lose their positions if supplemental funding is not approved. AmeriCorps volunteers work in our schools teaching our children reading and math. They provide

care to our senior citizens, they help clean up our parks, they teach the Nation's children and adults to read, and they provide other valuable volunteer services to our communities. If we fail to provide the necessary funds for AmeriCorps, we will unnecessarily be punishing the volunteers, the communities that they serve and the children, elderly and the poor who benefit from the skills and energy of the volunteers.

Some 2 weeks ago, the Senate responded positively and in a timely manner to address these emergency requests. Now, the House is about to pass a stripped-down supplemental appropriations bill in the amount of \$983 million just for FEMA disaster relief, thus ignoring the Senate's supplemental legislation enacted 2 weeks ago for wildfire fighting, NASA emergency funds, and AmeriCorps funding.

I am distressed by the situation in which we find ourselves. It is not the fault of the Chairman of the Appropriations Committee, Mr. STEVENS. He has been trying to find a solution to this problem. The Senate has done its part to solve this problem. Citizens who find themselves victimized by natural disasters and wildfires, and those individuals and communities who would have benefited from the AmeriCorps program, do not appreciate the game-playing now taking place in the Congress.

Mr. President, I yield the floor. I again thank the distinguished Senator from Alabama.

HISTORY OF JUDICIAL NOMINATIONS

Mr. SESSIONS. Mr. President, I think it is important, in light of Senator HATCH's remarks and some of the criticisms we have heard of his leadership in the Judiciary Committee a few days ago, that we recall a little history here on how we have handled judicial nominations in the past and why we are having problems today.

The criticism of Judiciary Committee Chairman ORRIN HATCH is simply unfair. He has stood foursquare for fairness, for constitutionality in the process, and for good public policy as we go about confirmations. That has been his record. When he chaired or was ranking member of the Judiciary Committee during the 8 years of President Clinton's administration, 377 Clinton nominees were confirmed to the bench. Only one nominee was voted down. No nominee was voted down in his committee. No nominee was filibustered in his committee.

When President Clinton left office, there were 41 judicial nominees who had not yet been confirmed by this Senate. That is a very good record compared to the situation when former President Bush left office. The Democrats controlled the Senate at that time, and 61 of former President Bush's judicial nominees were left unconfirmed. Those numbers are indisputable.

I know the distinguished Presiding Officer, Senator WARNER from Vir-

ginia, remembers the complaints in the Republican Conference that Senator HATCH had been too generous to President Clinton's nominees. Several Republican colleagues fussed at Senator HATCH, and Members were saying, "you are moving too many," or, "we need to block them," or, "let's consider a filibuster," or, "let's change the blue slip rules on circuit nominees," which would give individual Senators more power than they historically had to block Clinton nominees.

There was a conference set aside for the very purpose of resolving these issues. It was quite a battle. We discussed it for some time. Senator HATCH spoke passionately about the process, about what he thought the policy should be, about what he thought the law was, and about what he thought the Constitution required. We finally voted, and we voted not to filibuster and not to enhance the blue slip rule, thereby continuing the historic policies of this Senate. It was a very seriously contested matter. Senator HATCH argued passionately for his view, and at the time no one was sure how the vote would come out. But his arguments won the day.

It is worth considering some other history about the confirmation process.

In the entire history of the American Republic, it is indisputable that we have never had a filibuster of a circuit or a district judge. This tactic was used for the first time 2 years ago by the Democrats. They held a retreat not long after the 2000 election. The New York Times reported that a group of liberal professors met with the Democratic Senators, and they called on the Democrats to change the ground rules about confirmations, to ratchet up the partisanship. They had been complaining for 8 years that President Clinton's nominees weren't getting treated fairly. Overwhelmingly, I suggest, they were in error in those complaints. But in any case, instead of saying "we are going to act better now that we are in charge"—they were in charge of the Senate for a little less than 2 years—the Democrats decided to change the ground rules and make it even more difficult for President Bush's nominees to be confirmed.

So let me tell you what they did. President Bush announced his first group of judicial nominations in May 2001. He nominated 11 superbly qualified lawyers. As a gesture of good faith, he included 2 Democrats among these 11 nominees. One, an African-American, had previously been nominated by President Clinton. These were men and women of extraordinary accomplishment, with high ratings by the American Bar Association, and with tremendous backgrounds.

For almost 2 years, only the two Democrats were moved promptly. Virtually all of the remaining nine of the eleven original nominees remained unconfirmed by 2002. They were not even voted out of committee. They were blocked in committee.

The Democrats appeared to change the burden of proof—now, the judicial nominee seemed to bear the burden of proving that he or she was worthy of the judicial service. The chairman of the Courts Subcommittee then said that this would change the basic ground rules for confirmation.

The Democrats also insisted on changes in the blue slip policy. The blue slip policy allows home State Senators certain powers to object to the confirmation of Presidential nominees. The Democrats wanted to enhance that blue slip policy in order to block President Bush's nominees. They complained about it when President Clinton was in office and said it was wrong to use it as Republicans were properly doing. But when President Bush sent up nominees, they wanted to enhance the power of an individual Senator to block the President's nominees.

And then, of course, the Democrats started filibustering. They have already filibustered Priscilla Owen and Miguel Estrada. Both of those extraordinarily qualified nominees languish on the floor today. Both were given a unanimous well-qualified rating by the American Bar Association—a man and a woman of extraordinary achievement, great legal experience, superb legal ability, and unquestioned integrity. Yet the Democrats chose to filibuster each—the first filibusters in the history of this country for a circuit judge nominee.

Now, we have begun to see slowdowns in committee. The Democrats effectively have begun to try to filibuster in committee. They misinterpreted Rule IV of the Judiciary Committee rules, saying the chairman could not call a matter up for a vote unless at least one member of the Democratic minority agreed.

That rule was put in to make sure that a chairman had to bring a matter up for a vote, whether the chairman wanted to do so or not, when there were ten overall votes in favor, including at least 1 member of the other party. This rule is a limit on the power of the chairman. It did not stand for the novel proposition that, if the Democrats stuck together, no Republican nominee could be brought up for a vote.

To say that rule IV should be interpreted the way the Democrats on the committee are now complaining would mean the chairman couldn't bring any matter up for a vote without minority support—that a minority in committee could block any nomination moving out of committee. This interpretation is a recipe for disaster: a chairman has to be able to get a matter up for a vote, or the committee cannot do business.

Senator HATCH interpreted the rule as he is empowered to do. The majority of the committee, not to mention two parliamentarians, supported him on that. We should not and are not going to have filibusters in the Judiciary Committee that keep judges from even having a vote in the Judiciary Committee.